

BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

IN THE MATTER OF ENFORCEMENT)	PDC CASE NO: 01-200
ACTION AGAINST)	
)	
Seattle School District No. 1)	Notice of Administrative
)	Charges
Respondent.)	
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IT IS ALLEGED as follows:		

I.
JURISDICTION

Jurisdiction of this proceeding is based on Chapter 42.17 RCW, the Public Disclosure Act, Chapter 34.05, Administrative Procedure Act, and Title 390 WAC.

II.
LAW

RCW 42.17.680 states in part:

(3) No employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries may withhold or divert a portion of an employee's wages or salaries for contributions to political committees or for use as political contributions except upon the written request of the employee. . . . The request is valid for no more than twelve months from the date it is made by the employee.

(4) Each person or entity who withholds contributions under subsection (3) of this section shall maintain open for public inspection for a period of no less than three years, during normal business hours, documents and books of accounts that shall include a copy of each employee's request, the amounts and dates funds were actually withheld, and the amounts and dates funds were transferred to a political committee. Copies of such information shall be delivered to the commission upon request.

III. **BACKGROUND**

On March 23, 2001, the Public Disclosure Commission received a complaint from Mr. Jami Lund of the Evergreen Freedom Foundation alleging that the Seattle School District was in violation of RCW 42.17.680 for failing to maintain open for public inspection copies of employees' requests for payroll deductions of contributions to the Washington Education Association's (WEA) political committee, "Washington Education Association – Political Action Committee" (WEA-PAC). PDC staff reviewed the complaint and the response made on behalf of the district by its Assistant General Counsel, John Cerqui. PDC staff reviewed the Seattle School District employees' WEA-PAC payroll deduction authorizations submitted to the payroll office for the 2000-2001 school year and the WEA-PAC monthly payroll deduction registers maintained by the Seattle School District.

IV. **FACTS**

These charges incorporate the Report of Investigation and all of its exhibits by reference.

**Failure to Maintain Open for Public Inspection Employees' Payroll
Deduction Authorization Forms For Contributions to a Political Committee
(RCW 42.17.680(4))**

Esther Owen, of the Evergreen Freedom Foundation (EFF), visited the Seattle School District's payroll office on March 22, 2001 during normal business hours and asked to see the District employees' requests authorizing payroll deductions for contributions to WEA-PAC. Ms. Owen spoke with Kathleen Kay, Payroll Office Manager, who, after speaking with the Office of the General Counsel for the school district, instructed Ms. Owen to put her request in writing and submit it to the Office of the General Counsel. Ms. Kay directed Ms. Owen to the General Counsel's Office. Ms. Owen went to the Office of the General Counsel on March 22, 2001 and submitted a written request to see the WEA-PAC authorization forms. Ms. Owen stated by Declaration that it was implicit to her that the written request was required simply as a means of keeping a record of who inspected the documents and that after providing a written request she would be shown the documents in accordance with RCW 42.17.680(4).

Ms. Owen was told by a representative of the Office of the General Counsel that she could not see the documents that day and that someone from the General Counsel's office would respond in writing to her request. Ms. Owen told the representative that she only wanted to see the documents and did not want copies of them. The representative of the General Counsel's Office repeated that Ms. Owen could not see the documents that day, and that she would receive a response to her request in writing. The General Counsel's office responded to the EFF in writing on March 22, 2001 stating that within 30 days the records would be made available for inspection and/or copying or that the EFF would be notified that additional time was needed to locate and assemble the requested information.

On March 23, 2001, the Payroll Office delivered the employee withholding authorizations to the Office of the General Counsel. General Counsel staff redacted social security numbers and residential e-mail addresses from the documents. On March 26, 2001, Jami Lund sent an e-mail to the General Counsel's Office indicating that he wanted to inspect the documents and did not want to receive copies. On March 29, 2001, the General Counsel's Office informed Mr. Lund

that the redacted documents were ready for inspection. The district stated that neither Mr. Lund nor the EFF representative who initially visited the district returned to view the redacted records.

The Seattle School District withholds WEA-PAC contributions for 307 of its employees. PDC staff reviewed the WEA-PAC contribution authorizations and found that all employees have signed withholding authorization forms on file with the District. None of the 2000-2001 WEA-PAC contributions were withheld before the District received a signed authorization.

The District contends that the documents were made available within five business days of the initial request. The District now maintains redacted withholding authorizations available for inspection and contends that it is likely that future requests to view these documents will be honored in fewer than five business days, perhaps even on the day the request is made depending on personnel resources.

V. **CONCLUSION**

Staff alleges, based on the facts specified in Section IV, that Seattle School District No. 1 violated **RCW 42.17.680(4)** by failing to maintain open for public inspection for a period of no less than three years, during normal business hours, documents and books of accounts required by RCW 42.17.680 including a copy of each employee's request for withholding wages for the purpose of making contributions to a political committee. By waiting five business days before making the requested information available, the district failed to maintain open for public inspection, during business hours, the information required by RCW 42.17.680(4).

RESPECTFULLY SUBMITTED this 11th day of September, 2001.

_____/s
Philip E. Stutzman
Director of Compliance